Mr Rajiv Kataria, Advocate.
Mr IPS Sidhu, Sr DAG Punjab.

Heard counsel for the parties.

Learned counsel for the petitioner submits that FIR 68 of 1998 for the offence under Sections 307/160 IPC and Sections 25 and 57 of the Arms Act was registered at Police Station Civil Lines, Amritsar. Besides, another FIR 69 of 1998 for the offence under Section 25 of the Arms Act was registered at the same Police Station against the petitioner only. Both the FIRs are of the same date and the petitioner was appearing before the Ilaqa Magistrate. However, since FIR 68 of 1998 related to offence under Section 307 IPC also, therefore, it was committed to the Court of Session for trial as the offence under Section 307 IPC is triable by the said Court. FIR 69 of 1998 continued to remain with the Ilaqa Magistrate as the offence under Section 25 of the Arms Act was triable by the said Court. The petitioner was present on the date of framing the charge on 6.10.1999 in respect to the case FIR 69 of 1998. Besides, he continued to appear in the Sessions Court in the connected FIR 68 of 1998 in which the brother of the petitioner namely Sunil Sharma was an accused and he was thereafter acquitted. The petitioner under the bonafide impression that the brother of the petitioner had been acquitted, also stopped appearing in the Court. However, in fact the petitioner was liable to appear before the trial Magistrate in connection with the case under Section 25 of the Arms Act in respect of which FIR 69 of 1998 had been registered. The petitioner was declared a PO despite the fact that he had been appearing in two other cases i.e. FIR 261 of 2001 and FIR 72 of 2004 which were pending in the same Court and relating to the same Police Station. Had the petitioner

known that he was wanted in the present FIR 69 of 1998, he would have appeared in the said case also.

Learned counsel for the State has referred to the order of the learned Additional Sessions Judge dated 17.3.2007 (Annexure P4) and submitted that the conduct of the petitioner does not warrant that he should be admitted to bail. It is submitted that the petitioner absented himself from the Court and thereafter his warrants of arrest were issued repeatedly but he evaded the same.

I have given my thoughtful consideration to the matter.

It has not been disputed that the petitioner had been appearing in two other connected cases i.e. FIR 261 of 2001 and FIR 72 of 2004 of the same Police Station i.e. Civil Lines, Amritsar and before the same Ilaqa Magistrate. The mistake that has occurred appears to be bona fide and on account of the fact that two FIRs Nos.68 and 69 of 1998 were registered together. The possibility of there being confusion in respect of the two cases cannot be ruled out in the facts and circumstances of the case.

Considering the peculiar facts and circumstances of the case, the petitioner would be entitled to the concession of bail.

Accordingly, the petitioner, on his furnishing personal bond and surety to the satisfaction of the trial Magistrate, shall be admitted to bail. He shall also file an undertaking that he shall not absent himself in future during trial, except with the permission of the Court.

3.5.2007. (S.S.SARON)
ASR JUDGE